Paper No. 18

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JAMES A. RUDDY

Appeal No. 2002-1756
Application No. 09/037,879

ON BRIEF

Before KRASS, RUGGIERO and BLANKENSHIP, Administrative Patent Judges.

KRASS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 1-31.

The invention is directed to the recovery of data definitions using log records in a database management system.

Such log records maintain a record of all additions and deletions of information regarding data definitions from the system catalog of the database management system. The instant

invention first locates the log records relating to the information regarding data definitions which have been deleted or otherwise inaccessible from the system catalog. Then, the log records are extracted or read. The data definition information is extracted from these read log records and, finally, the extracted information is translated into the appropriate data definition instructions for the database management system so that the data definitions may be restored.

Representative independent claim 1 is reproduced as follows:

1. A computer system for recreating data definitions in a database system, the computer system comprising:

log records for storing information, including information regarding changes in the database system; and

a processor for extracting data definition information from the information stored in the log records and translating the data definition information into data definition instructions for the database system.

The examiner relies on the following references:

Sherman et al. (Sherman)	5,832,508	Nov. 3, 1998 (filed Nov. 14, 1996)
Boudrie et al. (Boudrie)	5,890,165	Mar. 30, 1999 (filed Mar. 29, 1996)

Claims 1-31 stand rejected under 35 U.S.C. § 103 as unpatentable over Boudrie in view of Sherman.

Reference is made to the briefs and answer for the respective positions of appellant and the examiner.

OPINION

In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the examiner to establish a factual basis to support the legal conclusion of obviousness. See In re Fine, 837 F.2d 1071, 1073, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). In so doing, the examiner is expected to make the factual determinations set forth in Graham v, John Deere Co., 383 U.S. 1, 17, 148 USPQ 459, 467 (1966), and to provide a reason why one having ordinary skill in the pertinent art would have been led to modify the prior art or to combine prior art references to arrive at the claimed invention. Such reason must stem from some teachings, suggestions or implications in the prior art as a whole or knowledge generally available to one having ordinary skill in the art. Uniroyal, Inc. v. Rudkin-Wiley Corp., 837 F.2d 1044, 1052, 5 USPQ2d 1434, 1438 (Fed. Cir.), cert. denied, 488 U.S. 825 (1988); Ashland Oil, Inc. v. Delta Resins & Refractories, Inc. , 776 F.2d 281, 293, 227 USPQ 657, 664 (Fed. Cir. 1985), cert. denied, 475 U.S. 1017 (1986); ACS Hosp. Sys., Inc. v. Montefiore Hosp., 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984). These showings by the examiner are an essential part of complying with the burden of presenting a prima facie case of obviousness. Note In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444

(Fed. Cir. 1992). If that burden is met, the burden then shifts to the applicant to overcome the prima facie case with argument and/or evidence. Obviousness is then determined on the basis of the evidence as a whole and the relative persuasiveness of the arguments. See Id.; In re Hedges, 783 F.2d 1038, 1039, 228 USPQ 685, 686 (Fed. Cir. 1986); In re Piasecki, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984); and In re Rinehart, 531 F.2d 1048, 1052, 189 USPQ 143, 147 (CCPA 1976). Only those arguments actually made by appellant have been considered in this decision. Arguments which appellant could have made but chose not to make in the brief have not been considered and are deemed to be waived (see 37 CFR 1.192 (a)).

The examiner contends that Boudrie discloses the claimed subject matter but for a teaching of "logging of transactions in order to determine their effect" (answer, page 4). The examiner then turns to Sherman for a teaching of "logging is more efficient than the 'interrogates' of Boudrie" (answer, page 4) and concludes that it would have been obvious to provide the logging of transactions in order to determine their effect" (answer, page 4).

Appellant argues that Boudrie only provides information on the allocation of various databases among different storage

devices but does not provide any information on the internal data definitions within the database. Appellant further argues that Sherman discloses no more than what appellant admits as prior art, i.e., log files for logging database changes and the use of these log records for performing a "rollback" procedure. Thus, according to appellant, neither of the applied references discloses or suggests the regeneration of lost data definitions from the log records in the data definition language so that the database itself may be recreated, as is claimed by appellant. This is more than a mere restoration of data as in the known rollback instruction.

We will not sustain the rejection of claims 1-31 under 35 U.S.C. § 103 because the examiner has not established a prima facie case of obviousness with regard to the instant claimed subject matter.

While the examiner has cited various portions of the applied references, it is not clear to us how these cited portions are being applied to the specific claim limitations. For example, the examiner cites column 4, lines 27-38 and Figure 7B of Boudrie as evidence of "translating of the data definition information into data definition instructions." We find the word "translates" in Figure 7B of the reference, but, other than that, we are

completely at a loss to determine how the allocation of databases to storage devices discussed by Boudrie at column 4, lines 27-38, corresponds to the specifically claimed "translating the data definition information into data definition instructions."

Moreover, the examiner has not convincingly pointed to anything in Boudrie relating to the claimed "data definitions." The examiner points to column 1, lines 45-61, of Boudrie for the teaching of recreating data definitions in a database system. We find nothing in the cited portion of the reference relating to "data definitions in a database system."

Further, appellant makes a fair case that Sherman discloses nothing more than the admitted prior art relating to a "rollback" instruction, over which the instant claimed subject matter is disclosed as having advantages. Yet, the examiner has not convincingly rebutted this argument by pointing to anything specific in the applied references indicating some suggestion of the claimed translation of data definition information into data definition instructions so that the data definitions may be restored.

Accordingly, the examiner's decision rejecting claims 1-31 under 35 U.S.C. § 103 is reversed.

REVERSED

ERROL A. KRASS Administrative Patent Judge	)	
JOSEPH F. RUGGERIO Administrative Patent Judge	)	BOARD OF PATENT APPEALS AND INTERFERENCES
HOWARD B. BLANKENSHIP Administrative Patent Judge	)	

EAK:clm

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